

## COMMITTEE REPORT

### MR. PRESIDENT:

**The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 518, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:**

1       Page 1, delete lines 1 through 17, begin a new paragraph, and insert:  
2       "SECTION 1. IC 5-2-5-1, AS AMENDED BY P.L.24-2000,  
3       SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4       JULY 1, 2001]: Sec. 1. The following definitions apply throughout this  
5       chapter:  
6       (1) "Limited criminal history" means information with respect to  
7       any arrest, indictment, information, or other formal criminal  
8       charge, which must include a disposition. However, information  
9       about any arrest, indictment, information, or other formal criminal  
10      charge which occurred less than one (1) year before the date of a  
11      request shall be considered a limited criminal history even if no  
12      disposition has been entered.  
13      (2) "Bias crime" means an offense in which the person who  
14      committed the offense knowingly or intentionally:  
15          (A) selected the person who was injured; or  
16          (B) damaged or otherwise affected property;  
17      by the offense because of the color, creed, disability, national  
18      origin, race, religion, or sexual orientation of the injured person  
19      or of the owner or occupant of the affected property or because  
20      the injured person or owner or occupant of the affected property

1 was associated with any other recognizable group or affiliation.

2 (3) "Council" means the security and privacy council created  
3 under section 11 of this chapter.

4 (4) "Criminal history data" means information collected by  
5 criminal justice agencies, the United States Department of Justice  
6 for the department's information system, or individuals. The term  
7 consists of the following:

8 (A) Identifiable descriptions and notations of arrests,  
9 indictments, informations, or other formal criminal charges.

10 (B) Information regarding an offender (as defined in  
11 IC 5-2-12-4) obtained through sex offender registration under  
12 IC 5-2-12.

13 (C) Any disposition, including sentencing, and correctional  
14 system intake, transfer, and release.

15 (5) "Criminal justice agency" means any agency or department of  
16 any level of government whose principal function is the  
17 apprehension, prosecution, adjudication, incarceration, probation,  
18 rehabilitation, or representation of criminal offenders, the location  
19 of parents with child support obligations under 42 U.S.C. 653, the  
20 licensing and regulating of riverboat gambling operations, or the  
21 licensing and regulating of pari-mutuel horse racing operations.  
22 The term includes the Medicaid fraud control unit for the purpose  
23 of investigating offenses involving Medicaid. The term includes  
24 a nongovernmental entity that performs as its principal function  
25 the:

26 (A) apprehension, prosecution, adjudication, incarceration, or  
27 rehabilitation of criminal offenders;

28 (B) location of parents with child support obligations under 42  
29 U.S.C. 653;

30 (C) licensing and regulating of riverboat gambling operations;  
31 or

32 (D) licensing and regulating of pari-mutuel horse racing  
33 operations;

34 under a contract with an agency or department of any level of  
35 government.

36 (6) "Department" means the state police department.

37 (7) "Disposition" means information disclosing that criminal  
38 proceedings have been concluded or indefinitely postponed.

**(8) "Foreign protection order" has the meaning set forth in IC 34-6-2-48.5.**

**(9) "Indiana order" has the meaning set forth in IC 5-2-9-2.1.**

~~(8)~~ **(10)** "Inspection" means visual perusal and includes the right to make memoranda abstracts of the information.

~~(9)~~ **(11)** "Institute" means the Indiana criminal justice institute established under IC 5-2-6.

~~(10)~~ **(12)** "Law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders.

~~(11)~~ **"Protective order" has the meaning set forth in IC 5-2-9-2.1.**

~~(12)~~ **(13)** "Release" means the furnishing of a copy, or an edited copy, of criminal history data.

~~(13)~~ **(14)** "Reportable offenses" means all felonies and those Class A misdemeanors which the superintendent may designate.

~~(14)~~ **(15)** "Request" means the asking for release or inspection of a limited criminal history by noncriminal justice organizations or individuals in a manner which:

(A) reasonably ensures the identification of the subject of the inquiry; and

(B) contains a statement of the purpose for which the information is requested.

~~(15)~~ **(16)** "Unidentified person" means a deceased or mentally incapacitated person whose identity is unknown.

SECTION 2. IC 5-2-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) On a daily basis, all law enforcement agencies shall enter into the Indiana data and communication system (IDACS) computer the following:

(1) All information concerning stolen or recovered property, including:

(A) motor vehicles;

(B) firearms;

(C) securities;

(D) boats;

(E) license plates; and

(F) other stolen or recovered property.

(2) All information concerning fugitives charged with a crime, including information concerning extradition.

(3) All information concerning runaways, missing and unidentified persons, and missing children (as defined in IC 10-1-7-2), including information concerning the release of such persons to the custody of a parent or guardian.

(4) Information contained in a ~~protective~~ **an Indiana** order, including any modifications or extensions issued by a court and filed with a law enforcement agency as required in IC 5-2-9-6(f).

**(5) Information contained in a foreign protection order, including any modifications or extensions issued by a tribunal and filed with a law enforcement agency as required in IC 5-2-9-6.3(c).**

(b) On a daily basis, all law enforcement agencies shall:

(1) enter all information concerning missing children (as defined in IC 10-1-7-2) into the National Crime Information Center's Missing Person File;

(2) enter into the National Crime Information Center's Wanted Person File all information concerning warrants issued for a person who allegedly abducted or unlawfully retained a missing child; and

(3) enter all information concerning unidentified persons into the National Crime Information Center's Unidentified Person File.

(c) If a ~~protective~~ **an Indiana** order or a **foreign protection order** is removed from a depository established under IC 5-2-9, the law enforcement agency responsible for the depository shall delete the information entered under subsection (a)(4) or **(a)(5)** from the Indiana data and communication system (IDACS) computer.

SECTION 3. IC 5-2-9-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 1.3. As used in this chapter, "county clerk" refers to the clerk of the circuit court.**

SECTION 4. IC 5-2-9-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 1.5. As used in this chapter, "foreign protection order" has the meaning set forth in IC 34-6-2-48.5.**

SECTION 5. IC 5-2-9-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 1.6. As used in this chapter, "tribunal" has the meaning set forth in IC 34-6-2-144.2.**

SECTION 6. IC 5-2-9-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2.1. (a) As used in this chapter, "**Indiana** order" means:

(1) a protective order issued under:

(A) IC 34-26-2-12(1)(A) (or IC 34-4-5.1-5(a)(1)(A) before its repeal);

(B) IC 34-26-2-12(1)(B) (or IC 34-4-5.1-5(a)(1)(B) before its repeal); or

(C) IC 34-26-2-12(1)(C) (or IC 34-4-5.1-5(a)(1)(C) before its repeal);

that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;

(2) an emergency protective order issued under IC 34-26-2-6(1), IC 34-26-2-6(2), or IC 34-26-2-6(3) (or IC 34-4-5.1-2.3(a)(1)(A), IC 34-4-5.1-2.3(a)(1)(B), or IC 34-4-5.1-2.3(a)(1)(C) before their repeal) that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;

(3) a temporary restraining order issued under IC 31-15-4-3(2) **or** IC 31-15-4-3(3) (**or IC 31-16-4-2(a)(2), or IC 31-16-4-2(a)(3),** ~~or~~ IC 31-1-11.5-7(b)(2), or IC 31-1-11.5-7(b)(3) before their repeal) that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;

(4) a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-19-5 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders a person to refrain from direct or indirect contact with a child in need of services or a delinquent child;

(5) an order issued as a condition of pretrial release, **including release on bail or personal recognizance**, or pretrial diversion, that orders a person to refrain from any direct or indirect contact with another person;

(6) an order issued as a condition of probation that orders a person to refrain from any direct or indirect contact with another person;

(7) a protective order issued under IC 31-15-5 ~~or IC 31-16-5~~ (**IC 31-16-5** or IC 31-1-11.5-8.2 before ~~its~~ **their** repeal) that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;

(8) a protective order issued under IC 31-14-16 in a paternity action that orders the respondent to refrain from having direct or indirect contact with another person; **or**

(9) a protective order issued under IC 31-34-17 in a child in need of services proceeding or under IC 31-37-16 in a juvenile delinquency proceeding that orders the respondent to refrain from having direct or indirect contact with a child; **or**

**(10) an order issued by a court in Indiana under IC 34-26-2.5-4 to enforce a foreign protection order.**

(b) Whenever an **Indiana** order is issued, the **Indiana** order must be captioned in a manner that indicates the type of order issued and the section of the Indiana Code that authorizes the protective order.

SECTION 7. IC 5-2-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. A depository is established in the office of each sheriff and law enforcement agency in Indiana for the purpose of collecting, maintaining, and retaining the following:

(1) ~~protective Indiana orders. issued under IC 34-26-2 (or IC 34-4-5-1 before its repeal) to prevent abuse of a person.~~

(2) ~~A dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-19-5 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an injunction issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that requires a person to refrain from direct or indirect contact with a child in need of services or a delinquent child.~~

(3) ~~Temporary restraining orders issued under IC 31-15-4-3(2), IC 31-15-4-3(3), IC 31-16-4-2(a)(2), or IC 31-16-4-2(a)(3) (or IC 31-1-11.5-7(b)(2), or IC 31-1-11.5-7(b)(3) before their repeal) that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner.~~

(4) ~~Orders issued as a condition of pretrial release or pretrial diversion that require a person to refrain from any direct or indirect contact with another person.~~

(5) ~~Orders issued as a condition of probation that require a person to refrain from any direct or indirect contact with another person.~~

(6) ~~Permanent protective orders issued under IC 31-15-5 or IC 31-16-5 (or IC 31-1-11.5-8.2 before its repeal) that order the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner.~~

**(2) Foreign protection orders.**

SECTION 8. IC 5-2-9-6 IS AMENDED TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2001]: Sec. 6. (a) The clerk of a court that  
issues an **Indiana** order shall provide a copy of the **Indiana** order to  
the following:

- (1) Each party.
- (2) A law enforcement agency of the municipality in which the  
person protected by the **Indiana** order resides.
- (3) If the person protected by the **Indiana** order does not reside in  
a municipality, the sheriff of the county in which the protected  
person resides.

(b) The clerk of a court that issues an **Indiana** order or the clerk of  
a court in which a petition is filed shall:

- (1) maintain a confidential file to secure any confidential  
information about a protected person designated on any form  
prescribed or approved by the division of state court  
administration; and

(2) provide a copy of the confidential form that accompanies the  
**Indiana** order to the following:

- (A) The sheriff of the county in which the **Indiana** order was  
issued.
- (B) The law enforcement agency of the municipality, if any, in  
which the protected person resides.
- (C) Any other sheriff or law enforcement agency designated in  
the **Indiana** order that has jurisdiction over the area in which  
a protected person may be located or protected.

(c) A sheriff or law enforcement agency that receives an **Indiana**  
order under subsection (a) and a confidential form under subsection (b)  
shall:

- (1) maintain a copy of the **Indiana** order in the depository  
established under this chapter;
- (2) enter:
  - (A) the date and time the sheriff or law enforcement agency  
receives the **Indiana** order;
  - (B) the location of the person who is subject to the **Indiana**  
order, **if reasonably ascertainable from the information  
received;**
  - (C) the name and identification number of the officer who

- 1 serves the **Indiana** order; ~~and~~  
 2 (D) the manner in which the **Indiana** order is served;  
 3 **(E) the name of the petitioner and any other protected**  
 4 **parties;**  
 5 **(F) the Social Security number, date of birth, and physical**  
 6 **description of each person who is the subject of the Indiana**  
 7 **order, if reasonably ascertainable from the information**  
 8 **received;**  
 9 **(G) the date the Indiana order expires;**  
 10 **(H) a caution indicator stating whether a person who is the**  
 11 **subject of the Indiana order is believed to be armed and**  
 12 **dangerous, if reasonably ascertainable from the**  
 13 **information received; and**  
 14 **(I) if furnished, a Brady record indicator stating whether**  
 15 **a person who is the subject of the Indiana order is**  
 16 **prohibited from purchasing or possessing a firearm under**  
 17 **federal law, if reasonably ascertainable from the**  
 18 **information received;**  
 19 on the copy of the **Indiana** order or the confidential form; and  
 20 (3) establish a confidential file in which a confidential form that  
 21 contains information concerning a protected person is kept.  
 22 (d) An **Indiana** order may be removed from the depository  
 23 established under this chapter only if the sheriff or law enforcement  
 24 agency that administers the depository receives:  
 25 (1) a notice of termination on a form prescribed or approved by  
 26 the division of state court administration;  
 27 (2) an order of the court; or  
 28 (3) a notice of termination and an order of the court.  
 29 (e) If an **Indiana** order in a depository established under this chapter  
 30 is terminated, ~~or expires,~~ the person who obtained the protective order  
 31 must file a notice of termination on a form prescribed or approved by  
 32 the division of state court administration with the clerk of the court.  
 33 The clerk of the court shall provide a copy of the notice of termination  
 34 ~~or of an Indiana~~ order to each of the depositories to which the **Indiana**  
 35 order and a confidential form were sent. The clerk of the court shall  
 36 maintain the notice of termination in the court's file.  
 37 (f) If an **Indiana** order or form in a depository established under this  
 38 chapter is extended or modified, the person who obtained the extension



or modification must file a notice of extension or modification on a form prescribed or approved by the division of state court administration with the clerk of the court. The clerk of the court shall provide a copy of the notice of extension or modification ~~or of an~~ **Indiana** order to each of the depositories to which the **Indiana** order and a confidential form were sent. The clerk of the court shall maintain the notice of extension or modification **of an Indiana order** in the court's file.

(g) The clerk of a court that issued an order terminating an **Indiana order that is an** emergency protective order shall provide a copy of the **Indiana** order to the following:

- (1) Each party.
- (2) The law enforcement agency provided with a copy of the ~~emergency protective~~ **Indiana** order under subsection (a).

SECTION 9. IC 5-2-9-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 6.3. (a) A county clerk that accepts a foreign protection order for filing under IC 34-26-2.5-12 shall provide a copy of the foreign protection order to the following:**

- (1) The person filing the foreign protection order.**
- (2) A law enforcement agency of the municipality in which the person protected by the foreign protection order resides.**
- (3) If the person protected by the foreign protection order does not reside in a municipality, the sheriff of the county in which the protected person resides.**

**(b) A county clerk that accepts a foreign protection order for filing under IC 34-26-2.5-12 shall:**

- (1) maintain a confidential file to secure any confidential information about a protected person designated on any form prescribed or approved by the division of state court administration; and**
- (2) provide a copy of the confidential form that accompanies the foreign protection order to the following:**
  - (A) The sheriff of the county where the county clerk maintains the county clerk's principal office.**
  - (B) The law enforcement agency of the municipality, if any, in which the protected person resides.**
  - (C) Any other sheriff or law enforcement agency that the**

1           county clerk has reason to believe has jurisdiction over the  
2           area in which a protected person may be located or  
3           protected.

4           (c) A sheriff or law enforcement agency that receives a foreign  
5           protection order under subsection (a) and a confidential form  
6           under subsection (b) shall:

7           (1) maintain a copy of the foreign protection order in the  
8           depository established under this chapter;

9           (2) enter:

10          (A) the name of the petitioner and any other protected  
11          parties;

12          (B) the date and time the sheriff or law enforcement  
13          agency received the foreign protection order;

14          (C) the location of each person who is the subject of the  
15          foreign protection order, if reasonably ascertainable from  
16          the information received;

17          (D) the date the foreign protection order expires;

18          (E) the tribunal and contact information, including the  
19          name and telephone number of the presiding officer or  
20          clerk of the issuing tribunal, if reasonably ascertainable  
21          from the information received;

22          (F) the Social Security number, date of birth, and physical  
23          description of each person who is the subject of the foreign  
24          protection order, if reasonably ascertainable from the  
25          information received;

26          (G) a caution indicator stating whether a person who is the  
27          subject of the foreign protection order is believed to be  
28          armed and dangerous, if reasonably ascertainable from the  
29          information received;

30          (H) if furnished, a Brady record indicator stating whether  
31          a person who is the subject of the foreign protection order  
32          is prohibited from purchasing or possessing a firearm  
33          under federal law, if reasonably ascertainable from the  
34          information received;

35          (I) the name and identification number of the officer who  
36          serves a foreign protection order, if reasonably  
37          ascertainable from the information received; and

38          (J) the manner in which the foreign protection order is

1           served, if reasonably ascertainable from the information  
2           received;  
3           on the copy of the foreign protection order or the confidential  
4           form; and  
5           (3) establish a confidential file in which a confidential form  
6           that contains information concerning a protected person is  
7           kept.

8           (d) A foreign protection order may be removed from the  
9           depository established under this chapter only if the sheriff or law  
10          enforcement agency that administers the depository receives:

11          (1) a notice of termination on a form prescribed or approved  
12          by the division of state court administration;  
13          (2) an order of the tribunal issuing the foreign protection  
14          order; or  
15          (3) a notice of termination and an order of a tribunal issuing  
16          the protection order.

17          (e) If a foreign protection order in a depository established  
18          under this chapter is terminated, the person who obtained the  
19          protective order must file a notice of termination on a form  
20          prescribed or approved by the division of state court  
21          administration with the county clerk where the foreign protection  
22          order was filed. The county clerk shall provide a copy of the notice  
23          of termination of a foreign protection order or order of a tribunal  
24          to each of the depositories to which the foreign protection order  
25          and a confidential form were sent. The county clerk shall maintain  
26          the notice of termination in the court's file.

27          (f) If a foreign protection order or form in a depository  
28          established under this chapter is extended or modified, the person  
29          who obtained the extension or modification must file a notice of  
30          extension or modification on a form prescribed or approved by the  
31          division of state court administration with the county clerk where  
32          the foreign protection order was filed. The county clerk shall  
33          provide a copy of the notice of extension or modification of a  
34          foreign protection order or order of a tribunal to each of the  
35          depositories to which the Indiana order and a confidential form  
36          were sent. The county clerk shall maintain the notice of extension  
37          or modification of a foreign protection order in the court's file.

38          SECTION 10. IC 5-2-9-7 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2001]: Sec. 7. (a) Any information:

(1) in a confidential form or any part of a confidential form prescribed or approved by the division of state court administration that must be filed with an **Indiana order or a foreign protection order**; or

(2) otherwise acquired concerning a protected person, **except the nonconfidential part of a petition for a protective order that is prescribed or approved by the division of state court administration under IC 34-26-2-2(2)**;

is confidential and may not be divulged to any respondent or defendant.

(b) Information described in subsection (a) may only be used by:

(1) a court;

(2) a sheriff;

(3) another law enforcement agency;

(4) a prosecuting attorney; or

(5) a court clerk;

to comply with a law concerning the distribution of the information.

SECTION 11. IC 5-2-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. A law enforcement agency that receives a copy of an **Indiana order or a foreign protection order** shall enter the information received into the Indiana data and communication system (IDACS) computer under IC 5-2-5-12.

SECTION 12. IC 33-11.6-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15. (a) **Subject to subsection (c)**, the costs consist of:

(1) a township docket fee equal to five dollars (\$5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-19-5-2;

(2) bailiff's service of process by registered or certified mail fee of six dollars (\$6) for each service;

(3) the cost for the personal service of process by the bailiff or other process server in the amount of eight dollars (\$8) for each service, with the exception that:

(A) personal service to execute a warrant for a protective order under IC 34-26-2 (or IC 34-4-5.1 before its repeal) shall cost a fee of twelve dollars (\$12); and

(B) writs of restitution and writs of replevin shall cost a fee of twelve dollars (\$12);

- (4) witness fees, if any, in the amount provided by IC 33-19-1-6 to be taxed and charged in the circuit court of the county; and  
 (5) a redocketing fee, if any, of five dollars (\$5).

**Subject to subsection (c),** the docket fee and the cost for the initial service of process shall be paid upon the institution of each case. **Subject to subsection (c),** the cost of service rendered subsequent to the initial service shall be assessed and paid after such service has been made, and the cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

**(c) The provisions of IC 33-19-4.5 (costs related to domestic violence offenses) apply to a small claims court, bailiff, sheriff, and witnesses to the same extent as if the small claims court were a court listed in IC 33-19-1-1.**

SECTION 13. IC 33-17-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) The clerk shall provide each person filing a petition for the issuance of a protective order under IC 34-26-2 without the assistance of an attorney the following information:

- (1) The procedure for obtaining a protective order.
- (2) When a protective order becomes effective.
- (3) Procedures to follow when a protective order is violated.
- (4) Information concerning the waiver of fees under IC 33-19-4.5.**

(b) The information required under subsection (a) must be printed in a manner that can be easily understood by a person who is not an attorney.

(c) The attorney general shall develop an appropriate form to provide the information referred to in subsection (a).

SECTION 14. IC 33-19-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

**Chapter 4.5. Costs Related to Domestic Violence Offenses**

**Sec. 1. This chapter applies to a person who files a motion, petition, or complaint with a court seeking a protective order or an order to enforce a foreign protection order to protect the person**

1 from any of the following:

2 (1) Domestic violence.

3 (2) Sexual assault.

4 (3) Stalking.

5 Sec. 2. (a) As used in this chapter, "domestic violence" means  
6 conduct against a person who is a family or household member  
7 that is prohibited by:

8 (1) a misdemeanor or felony under the laws of the United  
9 States, a state, or an Indian tribe that has as an element the  
10 use, attempted use, or threatened use of physical force against  
11 the person or property of another; or

12 (2) any other misdemeanor or felony under the laws of the  
13 United States, a state, or an Indian tribe that, by its nature,  
14 involves a substantial risk that physical force against the  
15 person or property of another may be used in the course of  
16 committing the offense;

17 regardless of whether the conduct results in criminal prosecution  
18 or the person who engages in the conduct is an adult.

19 (b) The term does not include an act of self defense.

20 Sec. 3. For purposes of this chapter, a person is a family or  
21 household member of another person if the person is any of the  
22 following:

23 (1) A spouse or former spouse of the other person.

24 (2) A person who has a child in common with the other  
25 person.

26 (3) A person who:

27 (A) is cohabiting or otherwise living with; or

28 (B) was cohabiting or otherwise living with;

29 the other person as if a spouse under Indiana law.

30 (4) A person who is or was in a social relationship of a  
31 romantic or intimate nature with the other person if the  
32 person would have been eligible to marry the other person  
33 under IC 31-11-1.

34 (5) The biological or adopted child of the other person.

35 (6) A person less than eighteen (18) years of age who is related  
36 to a person described in subdivisions (1) through (5).

37 Sec. 4. As used in this chapter, "foreign protection order"  
38 means a protection order issued by a tribunal of:

1           (1) another state; or  
 2           (2) an Indian tribe;  
 3 regardless of whether the protection order was issued in an  
 4 independent proceeding or as part of another criminal or civil  
 5 proceeding.

6           Sec. 5. As used in this chapter, "Indian tribe" means an Indian:

- 7           (1) tribe;  
 8           (2) band;  
 9           (3) pueblo;  
 10          (4) nation; or  
 11          (5) group or community that is organized, including an Alaska  
 12 Native village or regional or village corporation as defined in  
 13 or established under the Alaska Native Claims Settlement Act  
 14 (43 U.S.C. 1601 et seq.);

15 that is recognized as eligible for the special programs and services  
 16 provided by the United States to Indians because of their special  
 17 status as Indians.

18          Sec. 6. (a) As used in this chapter, "protective order" means an  
 19 injunction or other order, issued by a tribunal of the issuing state  
 20 or Indian tribe, to prevent an individual from engaging in:

- 21          (1) violent or threatening acts against;  
 22          (2) harassment of;  
 23          (3) contact or communication with; or  
 24          (4) physical proximity to;

25 another person, including temporary and final orders issued by  
 26 civil and criminal courts.

27          (b) The term does not include a support or child custody order  
 28 issued under the dissolution and child custody laws of a state or  
 29 Indian tribe, except to the extent that the order is entitled to full  
 30 faith and credit under a federal law other than 18 U.S.C. 2265.

31          (c) The term applies to an order regardless of whether the order  
 32 is obtained by filing an independent action or as a pendente lite  
 33 order in another proceeding if any civil order was issued in  
 34 response to a complaint, petition, or motion filed by or on behalf of  
 35 a person seeking protection.

36          Sec. 7. As used in this chapter, "sexual assault" means conduct  
 37 that is:

- 38          (1) prohibited by IC 35-42-4 (sex crimes), or IC 35-46-1-3

1 (incest);

2 (2) prohibited by a misdemeanor or felony under the laws of  
3 the United States, a state, or an Indian tribe that is  
4 substantially similar to an offense described in subdivision  
5 (1); or

6 (3) an attempt to engage in conduct described in subdivision  
7 (1) or (2);

8 regardless of whether the conduct results in criminal prosecution  
9 or the person who engages in the conduct is an adult.

10 Sec. 8. As used in this chapter, "stalking" means conduct that is:

11 (1) prohibited by IC 35-45-10-5 (stalking);

12 (2) prohibited by a misdemeanor or felony under the laws of  
13 the United States, a state, or an Indian tribe that is  
14 substantially similar to an offense described in subdivision  
15 (1); or

16 (3) an attempt to engage in conduct described in subdivision  
17 (1) or (2);

18 regardless of whether the conduct results in criminal prosecution  
19 or the person who engages in the conduct is an adult.

20 Sec. 9. Notwithstanding any other law, the clerk may not collect  
21 a fee or other reimbursement for the filing, issuance, registration,  
22 or service of any of the following:

23 (1) A warrant related to an action for a protective order or to  
24 enforce a foreign protection order.

25 (2) A motion, petition, or complaint for a protective order or  
26 to enforce a foreign protection order.

27 (3) A protective order or an order enforcing a foreign  
28 protection order.

29 (4) A witness subpoena related to an action for a protective  
30 order or to enforce a foreign protection order.

31 If a person seeks a protective order or an order enforcing a foreign  
32 protection order as part of another proceeding, the clerk may not  
33 collect a separate fee or reimbursement for the filing, issuance,  
34 registration, or service of the papers described in subdivisions (1)  
35 through (4).

36 Sec. 10. Prepayment of costs described in section 9 of this  
37 chapter are not required if the person, or a person acting on the  
38 person's behalf, alleges under oath or affirmation in the motion,



petition, or complaint seeking the protective order or order enforcing a foreign protection order that the person is or fears that the person will be a victim of domestic violence, sexual assault, or stalking.

**Sec. 11. Unless the court determines that a request for a protective order or the enforcement of a foreign protection order is frivolous, fraudulent, or groundless, the court shall waive the obligation that the person seeking the protective order or order enforcing a foreign protection order would otherwise have to pay the costs described in section 9 of this chapter if:**

- (1) the person, or another person acting on the person's behalf, makes the allegations described in section 10 of this chapter; or**
- (2) the court otherwise determines that the person is a person seeking protection from domestic violence, sexual assault, or stalking.**

**Sec. 12. This section does not prevent the collecting of costs from a party against whom a protective order or order enforcing a foreign protection order is sought.**

SECTION 15. IC 33-19-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) For each civil action except:

- (1) proceedings to enforce a statute defining an infraction under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- (2) proceedings to enforce an ordinance under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- (3) proceedings in juvenile court under IC 31-34 or IC 31-37;
- (4) proceedings in paternity under IC 31-14;
- (5) proceedings in small claims court under IC 33-11.6; and
- (6) proceedings in actions under section 6 of this chapter.

the clerk shall collect from the party filing the action a civil costs fee of one hundred dollars (\$100). ~~except as provided in subsection (b).~~

~~(b) For each proceeding for the issuance of a protective order under IC 34-26-2:~~

- ~~(1) the clerk shall initially collect thirty-five dollars (\$35) of the civil costs fee from the party that filed the action or the court may waive the initial thirty-five dollars (\$35) of the civil costs fee for the party that filed the action; and~~

(2) upon disposition of the protective order petition under IC 34-26-2, the court may order that:

(A) the remainder of the civil costs fee, in the amount of sixty-five dollars (\$65); be assessed against the respondent in the action as provided in IC 34-26-2-4 or against the party that filed the action; and

(B) the initial thirty-five dollar (\$35) civil costs fee be reimbursed by the respondent in the action to the party that filed the action or assessed against the respondent in the action as provided in IC 34-26-2-4.

(c) (b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

(1) A document fee.

(2) A support and maintenance fee.

SECTION 16. IC 34-6-2-21.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 21.2. "City or town law enforcement agency", for purposes of IC 34-26-2.5-15, means the department or agency of a city or town whose principal function is the apprehension of criminal offenders.**

SECTION 17. IC 34-6-2-48.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 48.5. "Foreign protection order", for purposes of IC 34-26-2.5, means a protection order issued by a tribunal of:**

(1) another state; or

(2) an Indian tribe;

**regardless of whether the protection order was issued in an independent proceeding or as part of another criminal or civil proceeding.**

SECTION 18. IC 34-6-2-49 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 49. "Governmental entity", for purposes of IC 34-13-2, IC 34-13-3, and IC 34-13-4, and IC 34-26-2.5, means the state or a political subdivision of the state.**

SECTION 19. IC 34-6-2-64 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 64. "In good faith", for purposes of IC 34-26-2.5 and IC 34-30-15, refers to an act taken:**

- (1) without malice;
- (2) after a reasonable effort to obtain the facts of the matter; and
- (3) in the reasonable belief that the action taken is warranted by the facts known.

SECTION 20. IC 34-6-2-66.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 66.7. "Indian tribe", for purposes of sections 48.5, 71.7, and 121.6 of this chapter and IC 34-26-2.5, means an Indian:**

- (1) tribe;**
- (2) band;**
- (3) pueblo;**
- (4) nation; or**
- (5) group or community that is organized, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);**

**that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians.**

SECTION 21. IC 34-6-2-71.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 71.7. "Issuing state or Indian tribe", for purposes of IC 34-26-2.5, means the state or Indian tribe whose tribunal issues a protection order.**

SECTION 22. IC 34-6-2-73.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 73.3. "Law enforcement officer", for purposes of IC 34-26-2.5, has the meaning set forth in IC 35-41-1-17.**

SECTION 23. IC 34-6-2-86.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 86.4. "Mutual foreign protection order", for purposes of IC 34-26-2.5, means a foreign protection order that includes provisions in favor of both the protected individual seeking enforcement of the order and the respondent.**

SECTION 24. IC 34-6-2-121.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2001]: **Sec. 121.4. "Protected individual", for purposes of section 86.4 of this chapter and IC 34-26-2.5, means an individual protected by a protection order.**

SECTION 25. IC 34-6-2-121.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 121.6. (a) "Protection order", for purposes of sections 48.5, 121.4, and 130.7 of this chapter and IC 34-26-2.5, means an injunction or other order, issued by a tribunal of the issuing state or Indian tribe, to prevent an individual from engaging in:**

- (1) violent or threatening acts against;**
- (2) harassment of;**
- (3) contact or communication with; or**
- (4) physical proximity to;**

**another person, including temporary and final orders issued by civil and criminal courts.**

**(b) The term does not include a support or child custody order issued under the dissolution and child custody laws of a state or Indian tribe, except to the extent that the order is entitled to full faith and credit under a federal law other than 18 U.S.C. 2265.**

**(c) The term applies to an order regardless of whether the order is obtained by filing an independent action or as a pendente lite order in another proceeding if any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.**

SECTION 26. IC 34-6-2-123 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 123. "Public employee", for purposes of IC 34-13-2, IC 34-13-3, and IC 34-13-4, and IC 34-26-2.5, has the meaning set forth in section 38 of this chapter.**

SECTION 27. IC 34-6-2-130.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 130.7. "Respondent", for purposes of section 86.4 of this chapter and IC 34-26-2.5, means the individual against whom the enforcement of a protection order is sought.**

SECTION 28. IC 34-6-2-138 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 138. "Sheriff":**

1           **(1) for purposes of IC 34-26-2.5, refers to the county sheriff;**  
 2           **and**

3           **(2) for purposes of IC 34-47-4, means the sheriff of the county in**  
 4           **which a court issues a writ of attachment under IC 34-47-4 (or**  
 5           **IC 34-4-9 before its repeal).**

6           SECTION 29. IC 34-6-2-140 IS AMENDED TO READ AS  
 7           FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 140. "State":

8           **(1) for purposes of IC 34-13-3 means Indiana and its state**  
 9           **agencies; and**

10           **(2) for purposes of sections 48.5 and 71.7 of this chapter and**  
 11           **IC 34-26-2.5, has the meaning set forth in IC 1-1-4-5.**

12           SECTION 30. IC 34-6-2-144.2 IS ADDED TO THE INDIANA  
 13           CODE AS A NEW SECTION TO READ AS FOLLOWS  
 14           [EFFECTIVE JULY 1, 2001]: **Sec. 144.2. "Tribunal", for purposes**  
 15           **of sections 48.5 and 121.6 of this chapter and IC 34-26-2.5, means**  
 16           **a court, agency, or other entity authorized by law to issue or**  
 17           **modify a protection order.**

18           SECTION 31. IC 34-13-3-3, AS AMENDED BY P.L.142-1999,  
 19           SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20           JULY 1, 2001]: Sec. 3. A governmental entity or an employee acting  
 21           within the scope of the employee's employment is not liable if a loss  
 22           results from:

- 23           (1) the natural condition of unimproved property;
- 24           (2) the condition of a reservoir, dam, canal, conduit, drain, or
- 25           similar structure when used by a person for a purpose that is not
- 26           foreseeable;
- 27           (3) the temporary condition of a public thoroughfare that results
- 28           from weather;
- 29           (4) the condition of an unpaved road, trail, or footpath, the
- 30           purpose of which is to provide access to a recreation or scenic
- 31           area;
- 32           (5) the initiation of a judicial or an administrative proceeding;
- 33           (6) the performance of a discretionary function; however, the
- 34           provision of medical or optical care as provided in IC 34-6-2-38
- 35           shall be considered as a ministerial act;
- 36           (7) the adoption and enforcement of or failure to adopt or enforce
- 37           a law (including rules and regulations), unless the act of
- 38           enforcement constitutes false arrest or false imprisonment;

- (8) an act or omission performed in good faith and without malice under the apparent authority of a statute **or court order** which is invalid, **including an arrest or imprisonment related to the enforcement of a statute or court order**, if the employee would not have been liable had the statute **or court order** been valid;
- (9) the act or omission of anyone other than the governmental entity or the governmental entity's employee;
- (10) the issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law;
- (11) failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety;
- (12) entry upon any property where the entry is expressly or impliedly authorized by law;
- (13) misrepresentation if unintentional;
- (14) theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission;
- (15) injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter;
- (16) injury to the person or property of a person under supervision of a governmental entity and who is:
  - (A) on probation; or
  - (B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, or a community corrections program under IC 11-12;
- (17) design of a highway (as defined in IC 9-13-2-73) if the claimed loss occurs at least twenty (20) years after the public highway was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and

1 maintain public highways in a reasonably safe condition;

2 (18) development, adoption, implementation, operation,  
3 maintenance, or use of an enhanced emergency communication  
4 system;

5 (19) injury to a student or a student's property by an employee of  
6 a school corporation if the employee is acting reasonably under a  
7 discipline policy adopted under IC 20-8.1-5.1-7(b); ~~or~~

8 (20) an error resulting from or caused by a failure to recognize the  
9 year 1999, 2000, or a subsequent year, including an incorrect date  
10 or incorrect mechanical or electronic interpretation of a date, that  
11 is produced, calculated, or generated by:

12 (A) a computer;

13 (B) an information system; or

14 (C) equipment using microchips;

15 that is owned or operated by a governmental entity. However, this  
16 subdivision does not apply to acts or omissions amounting to  
17 gross negligence, willful or wanton misconduct, or intentional  
18 misconduct. For purposes of this subdivision, evidence of gross  
19 negligence may be established by a party by showing failure of a  
20 governmental entity to undertake an effort to review, analyze,  
21 remediate, and test its electronic information systems or by  
22 showing failure of a governmental entity to abate, upon notice, an  
23 electronic information system error that caused damage or loss;

24 **or**

25 **(21) an act or omission performed in good faith and without**  
26 **malice under the apparent authority of a court order**  
27 **described in IC 35-46-1-15.1 that is invalid, including an**  
28 **arrest or imprisonment related to the enforcement of the**  
29 **court order, if the governmental entity or employee would not**  
30 **have been liable had the court order been valid.**

31 However, subdivision (20) expires on June 30, 2003.

32 SECTION 32. IC 34-26-2-1 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. A person may  
34 petition any court of record **or a small claims court established under**  
35 **IC 33-11.6-1-3** for a protective order on behalf of that person or a  
36 member of the petitioner's household.

37 SECTION 33. IC 34-26-2-2 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. The petition:

1 (1) must include the name of the petitioner and the name and  
 2 address (if known) of the respondent;

3 (2) must include, **on a separate or detachable nonconfidential**  
 4 **form prescribed or approved by the division of state court**  
 5 **administration:**

6 (A) any allegation concerning the date or manner of specific  
 7 acts or feared acts of abuse, harassment, or disruption of the  
 8 peace of the petitioner or members of the petitioner's  
 9 household or any allegations concerning specific damage to or  
 10 the fear of damage to any property of the petitioner; **and**

11 **(B) if the petitioner is requesting that the respondent**  
 12 **refrain from entering or damaging real property, an**  
 13 **indication of whether the petitioner knows or believes that**  
 14 **the petitioner and the respondent are disputing who owns,**  
 15 **or has a lease or easement to use, the real property;**

16 (3) must include a request that, if the court grants the protective  
 17 order, the court shall order the respondent:

18 (A) to refrain from abusing, harassing, or disturbing the peace  
 19 of the petitioner, by either direct or indirect contact;

20 (B) to refrain from abusing, harassing, or disturbing the peace  
 21 of a member of the petitioner's household, by either direct or  
 22 indirect contact;

23 (C) to refrain from entering the property of the petitioner,  
 24 jointly owned or leased property of the petitioner and  
 25 respondent if the respondent is not the sole owner or lessee, or  
 26 any other property as specifically described in the petition;

27 (D) to refrain from damaging any property of the petitioner;

28 (E) if the petitioner and respondent are married and if a  
 29 proceeding for dissolution of marriage or legal separation is  
 30 not pending:

31 (i) to be evicted from the dwelling of the petitioner if the  
 32 respondent is not the sole owner or lessee of the petitioner's  
 33 dwelling;

34 (ii) to not transfer, encumber, damage, conceal, or otherwise  
 35 dispose of property jointly owned with the petitioner or that  
 36 is an asset of the marriage;

37 (iii) to pay child support to the custodian of any minor  
 38 children of the parties alone or with the other party;



- 1 (iv) to pay maintenance to the other party; or
- 2 (v) to perform a combination of acts listed in items (i)
- 3 through (iv);
- 4 (4) must be sworn to by the petitioner;
- 5 (5) must include a request that the court set a date for a protective
- 6 order hearing under this chapter;
- 7 (6) must be accompanied by a confidential form concerning
- 8 protective orders prescribed or approved by the division of state
- 9 court administration; and
- 10 (7) may include a request that the court order counseling or other
- 11 social services, including domestic violence education, for the
- 12 petitioner, the respondent, or both.

13 SECTION 34. IC 34-26-2-4 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. **(a) The court:**

- 15 **(1) shall order the clerk of the court to waive any filing fees**
- 16 **required for a proceeding under this chapter if IC 33-19-4.5**
- 17 **applies; and**
- 18 **(2) may order filing fees to be paid by the respondent after a**
- 19 **hearing held under this chapter.**

20 **(b) The court may:**

- 21 (1) order the clerk of the court to waive any filing fees required
- 22 **for a proceeding** under this chapter if the petitioner demonstrates
- 23 by affidavit that the petitioner is unable to pay the fees due to all
- 24 relevant circumstances; and
- 25 (2) order filing fees to be paid by the respondent after a hearing
- 26 held under this chapter.

27 SECTION 35. IC 34-26-2-6 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. **(a) The emergency**  
 29 **protective order issued under section 5 of this chapter may direct the**  
 30 **respondent to refrain from:**

- 31 (1) abusing, harassing, or disturbing the peace of the petitioner by
- 32 either direct or indirect contact;
- 33 (2) abusing, harassing, or disturbing the peace of a member of the
- 34 petitioner's household, by either direct or indirect contact;
- 35 (3) entering the property of the petitioner or any other property as
- 36 specifically described in the petition; or
- 37 (4) damaging any property of the petitioner.

38 **(b) If the court determines on the face of the petition that the**

petition for a protective order arises out of a dispute over who owns, or has a lease or an easement to use, real property, the court may:

- (1) issue an emergency protective order under subsection (a) without an order under subsection (a)(3); or
- (2) deny the emergency protective order, if the likelihood of future abuse or harassment is insubstantial.

SECTION 36. IC 34-26-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) When a petition is filed, the clerk shall issue a summons to appear at a hearing to the respondent that:

- (1) gives notice of the date, time, and place of the hearing; and
- (2) informs the respondent that the respondent must appear before the court to answer the petition.

(b) The clerk shall serve the respondent with:

- (1) the summons to appear; and
- (2) a copy of the nonconfidential form submitted as part of the petition under section 2(2) of this chapter;

in accordance with Rule 4.1 of the Rules of Trial Procedure.

(c) Before complying with subsection (b)(2), the clerk shall separate the nonconfidential form submitted under section 2(2) of this chapter from the remainder of the petition.

SECTION 37. IC 34-26-2-12, AS AMENDED BY P.L.14-2000, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) A court shall set a date for a hearing concerning a petition described in section 2 of this chapter not more than thirty (30) days after the date the petition is filed with the court. At the hearing, if at least one (1) of the allegations described in the petition is proved by a preponderance of the evidence, the court:

- (1) shall order the respondent:
  - (A) to refrain from abusing, harassing, or disturbing the peace of the petitioner, by either direct or indirect contact;
  - (B) to refrain from abusing, harassing, or disturbing the peace of a member of the petitioner's household, by either direct or indirect contact;
  - (C) to refrain from entering the property of the petitioner, jointly owned or leased property of the petitioner and the respondent if the respondent is not the sole owner or lessee, or

- 1 any other property as specifically described in the petition;  
 2 (D) to refrain from damaging any property of the petitioner;  
 3 and  
 4 (E) if the petitioner and respondent are married and if a  
 5 proceeding for dissolution of marriage or legal separation is  
 6 not pending:
- 7 (i) to be evicted from the dwelling of the petitioner if the
  - 8 respondent is not the sole owner or lessee of the petitioner's
  - 9 dwelling;
  - 10 (ii) to not transfer, encumber, damage, conceal, or otherwise
  - 11 dispose of property jointly owned with the petitioner or that
  - 12 is an asset of the marriage;
  - 13 (iii) to pay child support to the custodian of any minor
  - 14 children of the parties alone or with the other party;
  - 15 (iv) to pay maintenance to the other party; or
  - 16 (v) to perform a combination of the acts described in items
  - 17 (i) through (iv);
- 18 (2) may order the respondent to refrain from possessing a firearm  
 19 (as defined in IC 35-47-1-5) during a period not longer than the  
 20 period that the respondent is under the protective order if the  
 21 court finds by clear and convincing evidence that the respondent  
 22 poses a significant threat of inflicting serious bodily injury to the  
 23 petitioner or a member of the petitioner's household or family; and  
 24 (3) may order counseling or other social services, including  
 25 domestic violence education, for the petitioner or the respondent,  
 26 or both, and may order the respondent to pay the costs of  
 27 obtaining counseling or other social services for the petitioner or  
 28 the respondent, or both.
- 29 If the court prohibits the respondent from possessing a firearm under  
 30 subdivision (2), the court shall notify the state police department of the  
 31 restriction. The court may also order the confiscation under IC 35-47-3  
 32 of any firearms that the court finds the respondent to possess during the  
 33 period that the protective order is in effect.
- 34 **(b) If the court determines that the petition for a protective**  
 35 **order arises out of a dispute over who owns, or has a lease or an**  
 36 **easement to use, real property, the court may:**
- 37 **(1) issue a protective order under subsection (a) without an**
  - 38 **order under subsection (a)(1)(C) or (a)(1)(D), or both; or**

(2) deny the petition for a protective order, if the likelihood of future abuse or harassment against a petitioner is insubstantial.

SECTION 38. IC 34-26-2-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 18. If a respondent is ordered to stay away from a petitioner, an invitation by a petitioner to a petitioner's residence or other place where a petitioner is located, does not:**

(1) allow the respondent to go to the residence or other place where a petitioner is located; or

(2) waive or nullify any relief provided by the court in the order of protection."

SECTION 39. IC 34-26-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

**Chapter 2.5. Enforcement of Foreign Protection Orders**

**Sec. 1. This chapter applies to a foreign protection order issued by a tribunal of the following:**

(1) Another state.

(2) An Indian tribe.

**Sec. 2. A valid foreign protection order shall be accorded full faith and credit by the courts in Indiana. A court in Indiana may not enforce a foreign protection order issued by a tribunal of an issuing state or Indian tribe only if the issuing state or Indian tribe does not recognize the standing of a protected individual to seek enforcement of the order.**

**Sec. 3. A person authorized by Indiana law to seek enforcement of a protection order may seek enforcement of a valid foreign protection order in a circuit, superior, or probate court in Indiana.**

**Sec. 4. A circuit, superior, or probate court shall enforce the protection order provisions of an order issued by a tribunal, regardless of whether the order was obtained in an independent proceeding or as part of another proceeding. In a proceeding to enforce a foreign protection order, the circuit, superior, or probate court shall follow Indiana procedures for the enforcement of protection orders.**

**Sec. 5. A foreign protection order is valid if it:**

- (1) identifies the protected individual and the respondent;**
- (2) is currently in effect;**
- (3) was issued by a tribunal that had jurisdiction over the parties and subject matter under the law of the issuing state or Indian tribe; and**
- (4) either:**
  - (A) was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issued the order; or**
  - (B) was issued in the case of an order ex parte, and the respondent was given notice and had an opportunity to be heard within a reasonable time after the order was issued, consistent with the rights of the respondent to due process.**

**Sec. 6. A foreign protection order valid on its face is prima facie evidence of its validity.**

**Sec. 7. The absence of any of the criteria for validity of a foreign protection order is an affirmative defense in an action seeking enforcement of the order or charging a person with a crime for violation of the foreign protection order.**

**Sec. 8. A circuit, superior, or probate court in Indiana may enforce mutual protection order provisions of an order of an issuing state or Indian tribe that favor a respondent only if:**

- (1) the respondent files a written pleading seeking a protection order from the tribunal of the issuing state or Indian tribe; and**
- (2) the tribunal of the issuing state or Indian tribe makes specific findings in favor of the respondent.**

**Sec. 9. If IC 33-19-4.5 applies to the protected individual, costs or fees may not be imposed against a protected individual in a proceeding commenced to enforce a foreign protection order.**

**Sec. 10. (a) A law enforcement officer, upon determining that:**

- (1) there is probable cause to believe that a valid foreign protection order exists; and**
- (2) the order has been violated;**

**shall enforce the order as if it were the order of an Indiana court. The presentation of a foreign protection order that identifies both the protected individual and the respondent and, on its face, is currently in effect constitutes probable cause to believe that a valid**

foreign protection order exists. For purposes of this section, the protection order may be inscribed on a tangible medium or may have been stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of a protection order is not required for enforcement.

(b) If a foreign protection order is not presented, an Indiana law enforcement officer may consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists, including information from the National Crime Information Center (NCIC) protection order file, Indiana data and communication system (IDACS) under IC 5-2-5, or a depository established under IC 5-2-9-5.

(c) If an Indiana law enforcement officer determines that an otherwise valid foreign protection order cannot be enforced because the respondent has not been notified or served with the order, the officer shall:

- (1) inform the respondent of the order;
- (2) make a reasonable effort to serve the order upon the respondent; and
- (3) allow the respondent a reasonable opportunity to comply with the order before enforcing the order.

(d) Registration or filing of an order in Indiana or in the National Crime Information Center (NCIC) protection order file is not required for the enforcement of a valid foreign protection order. The commencement of an action under section 3 of this chapter is not required for the enforcement of a valid foreign protection order.

**Sec. 11.** Any individual may register a valid foreign protection order in Indiana. To register a foreign protection order, an individual must present the information required under section 12 of this chapter to a county clerk in the judicial district where the protected person resides.

**Sec. 12.** A county clerk shall accept a foreign protection order for registration upon presentation of the following:

- (1) A copy of a foreign protection order.
- (2) A completed form prescribed or approved by the division of state court administration for the registration of foreign protective orders that includes a format for the protected

individual to provide a statement under affirmation that, to the best of the protected individual's knowledge, the order is currently in effect.

Registration, including the preparation of necessary copies, shall be without fee or cost.

**Sec. 13.** The county clerk may not notify the party against whom the order has been made that a foreign protection order has been registered.

**Sec. 14.** If the foreign protection order appears to be valid on its face, the county clerk shall:

- (1) comply with IC 5-2-9-6.3; and
- (2) provide the petitioner with a copy bearing proof of filing with the county clerk.

**Sec. 15.** Upon receipt of a copy of a foreign protection order under section 14 of this chapter, a city or town law enforcement agency or sheriff shall comply with IC 5-2-5-12 and IC 5-2-9-6.3.

**Sec. 16. (a)** If a foreign protection order filed with a county clerk under section 11 of this chapter is terminated or expires, the person who obtained the foreign protection order must:

- (1) file a notice of termination on a form prescribed or approved by the division of state court administration; and
- (2) file a copy of the order terminating the foreign protection order, if terminated by an order other than the foreign protection order;

with the county clerk in Indiana with whom the foreign protection order was filed.

**(b)** If a foreign protection order filed with a county clerk under section 11 of this chapter is extended or modified, the person who obtained the extension or modification must file:

- (1) a notice of extension or modification on a form prescribed or approved by the division of state court administration; and
- (2) a copy of the order extending or modifying the foreign protection order;

with the county clerk in Indiana with whom the foreign protection order was filed.

**Sec. 17.** A county clerk shall:

- (1) accept a notice and order filed under section 16 of this chapter from a protected individual without charge; and

(2) comply with IC 5-2-9-6.3.

**Sec. 18. A county clerk shall provide a protected person with forms:**

(1) prescribed or approved by the division of state court administration; and

(2) required under section 12 or 16 of this chapter; without charge.

**Sec. 19. A circuit, superior, or probate court in Indiana may not enforce under this chapter a provision of a foreign protection order with respect to support. A provision concerning support may be enforced under IC 31-18.**

**Sec. 20. A circuit, superior, or probate court in Indiana may not enforce under this chapter a provision of a foreign protection order with respect to custody. A provision concerning custody may be enforced under IC 31-17-3.**

**Sec. 21. The provisions of IC 34-13-3-3 apply to an act or omission by a governmental entity or an employee arising out of the:**

(1) registration or enforcement of a foreign protection order; or

(2) detention or arrest of an alleged violator of a foreign protection order.

**Sec. 22. A protected individual who pursues remedies under this chapter may pursue other legal or equitable remedies against the respondent."**

Delete pages 2 through 7.

Page 8, delete lines 1 through 12.

Page 11, delete lines 37 through 42.

Page 12, delete lines 1 through 5, begin a new paragraph and insert:

"SECTION 41. IC 35-46-1-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 20. A law enforcement officer may enforce a foreign protection order (as defined in IC 34-6-2-48.5) in conformity with the procedures in IC 34-26-2.5-10.**

SECTION 42. [EFFECTIVE JULY 1, 2001] (a) IC 5-2-5 and IC 5-2-9, both as amended by this act, and IC 34-6-2.5, as added by this act, apply to foreign protection orders issued before, on, or



1 after July 1, 2001.

2 (b) IC 34-13-3-3, as amended by this act, applies only to a cause  
3 of action that accrues after June 30, 2001.

4 SECTION 43. [EFFECTIVE JULY 1, 2001] (a) Notwithstanding  
5 IC 5-2-5-12(a)(5), the state police department has until January 1,  
6 2002, to modify its computer system to allow for the entry of  
7 foreign protection orders into the Indiana data and communication  
8 system (IDACS).

9 (b) This SECTION expires July 1, 2002.

10 SECTION 44. [EFFECTIVE JULY 1, 2001] (a) IC 5-2-9-7,  
11 IC 34-26-2-2(2), IC 34-26-2-6, IC 34-26-2-11, and IC 34-26-2-12, all  
12 as amended by this act, apply only to petitions for issuance of a  
13 protective order filed with a court after June 30, 2001.

14 (b) IC 33-19-4.5, as added by this act, and the amendments to  
15 IC 33-19-5-4, IC 33-11.6-4-15, and IC 34-26-2-4 apply only to  
16 proceedings commenced after the effective date of this SECTION.

17 (c) IC 35-38-1-7.1, as amended by this act, applies to all  
18 convictions for a crime entered after the effective date of this  
19 SECTION.

20 (d) IC 35-45-10-5 and IC 35-46-1-15.1, both as amended by this  
21 act, apply only to offenses committed after the effective date of this  
22 SECTION.

23 SECTION 45. [EFFECTIVE JULY 1, 2001] The division of state  
24 court administration shall:

25 (1) prescribe or approve any form changes required as a  
26 result of the enactment of IC 33-19-4.5;

27 (2) approve or prescribe nonconfidential forms required  
28 under IC 34-26-2-2(2), as amended by this act; and

29 (3) make the forms or information concerning the format  
30 available to county clerks;

31 before July 1, 2001. The forms described in subdivision (3) must be  
32 designed with a format that allows for the easy separation of  
33 confidential information concerning the petitioner from  
34 information that a respondent needs to prepare a defense to the  
35 allegations raised by the petition.

36 SECTION 46. [EFFECTIVE JULY 1, 2001] (a) The legislative  
37 council shall provide in calendar year 2001 for the legislative study  
38 of fees, judicial powers, and procedures related to the issuance of

1 protective orders by Indiana courts and the preparation of  
2 recommendations for necessary legislative action. The topics  
3 studied must include the following:

4 (1) Issues raised by the Protective Order Committee of the  
5 Judicial Conference of Indiana in its proposal for legislative  
6 changes in the protective order statutes dated January 22,  
7 2001.

8 (2) Any issues related to compliance with the federal Violence  
9 Against Women Act of 2000 (P.L.106-386, October 28, 2000,  
10 114 Stat. 1464) that have not been addressed by this act.

11 (3) Proposals to allow employers and other persons adversely  
12 affected by domestic violence or family violence against an  
13 employee or other person to seek a protective order on behalf  
14 of the victim.

15 (4) Any other topic assigned by the legislative council.

16 (b) The legislative council is urged to consider assigning the  
17 matters described in subsection (a) to the criminal law study  
18 commission.

19 (c) In carrying out this SECTION, the committee or commission  
20 to which the matters described in subsection (a) are assigned shall  
21 operate under the direction of the legislative council and shall issue  
22 a final report when directed to do so by the council.

23 (d) The affirmative votes of a majority of the members  
24 appointed to the committee or commission are required for the  
25 committee or commission to take any official action, including final

- 1       **reports, on the matters described in subsection (a).**
- 2       **(e) This SECTION expires January 1, 2001."**
- 3       Renumber all SECTIONS consecutively.  
      (Reference is to SB 518 as introduced.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 8, Nays 0.

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**Long**

**Chairperson**